
WELSH STATUTORY INSTRUMENTS

2009 No. 783

**The Mental Capacity (Deprivation of Liberty:
Assessments, Standard Authorisations and Disputes
about Residence) (Wales) Regulations 2009**

PART 3

Selection of Assessors

Selection of assessors — general

7.—(1) A supervisory body may only select a person to carry out an assessment in any individual case where the person is—

- (a) not financially interested in the care of the relevant person;
 - (b) not a relative of the relevant person; and
 - (c) not a relative of a person who is financially interested in the care of the relevant person.
- (2) For the purposes of this regulation a “relative” (*perthynas*) means:
- (a) the father, mother, stepfather, stepmother, son, daughter, grandmother, grandfather, grandson or granddaughter of that person or of that person’s spouse, former spouse, civil partner or former civil partner; or
 - (b) the brother, sister, uncle, aunt, niece, nephew or first cousin (whether of the full blood or of the half blood or by marriage or civil partnership) of that person or of that person’s spouse, former spouse, civil partner or former civil partner.
- (3) For the purposes of this regulation—
- (a) “Spouse” (*prïod*) or “civil partner” (*partner sifil*) includes a person who is not married to or in a civil partnership with a person but is living with that person as if they were; and
 - (b) a person has a financial interest in a care home or independent hospital where that person is a partner, director, other office-holder or major shareholder of the care home or independent hospital that has made the request for a standard authorisation.
 - (c) “major shareholder” (*cyfranddaliwr sylweddol*) means—
 - (i) any person who holds one tenth or more of the issued shares in the care home or independent hospital, where the care home or independent hospital is a company limited by shares, and
 - (ii) in all other cases, any of the owners of the care home or independent hospital.

Selection of best interests assessors

8. A supervisory body may only select a person to carry out a best interests assessment where that person is not involved in the care or treatment, or in making decisions about the care or treatment, of the relevant person.